
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH – CENTRAL DIVISION

ERIC H.,

Plaintiff,

v.

NANCY BERRYHILL, acting
Commissioner of the Social Security
Administration,

Defendant.

**ORDER ADOPTING REPORT &
RECOMMENDATION AND
DISMISSING CASE**

Case No. 2:16-CV-00180-RJS-BCW

Judge Robert J. Shelby

Magistrate Judge Brooke C. Wells

Plaintiff Eric H.¹ brought this action to obtain judicial review of the decision by Defendant Nancy Berryhill, Acting Commissioner of the Social Security Administration, denying his application for Supplemental Security Income under the Social Security Act. Now before the court is the Report & Recommendation prepared by Magistrate Judge Brooke C. Wells in which she recommends that the Commissioner's decision be affirmed.² For the reasons briefly discussed below, the court adopts the Report & Recommendation in its entirety, dismisses this action, and directs the Clerk of Court to close this case.

BACKGROUND

Mr. H. applied for Supplemental Security Income under Title XVI of the Social Security Act on March 25, 2014, alleging a disability onset that same date in the form of "cognitive disorder, affective disorder, anti-social personality disorder, psychogenic seizures, lumbar and

¹ Magistrate Judge Wells refers to Plaintiff in her Report & Recommendation in this manner to protect his privacy. The court will continue the practice in this Order.

² Dkt. 36.

thoracic degenerative disc disease, decrease vision, loss of hearing in the left ear, and loss of left eye vision.” After his claim was twice denied—upon its initial filing and then upon its reconsideration—Mr. H. requested a hearing on his claim.³ Following a hearing on August 12, 2015, the Administrative Law Judge on October 19, 2015 issued a decision denying his claim, finding him not disabled under § 1614(a)(3)(A) of the Social Security Act.⁴ On January 27, 2016, the Appeals Council denied his request for a hearing.

Mr. H. filed this action to obtain reversal or remand for a new hearing of the final agency decision denying his SSI claim,⁵ alleging that the decisions of the ALJ and the Appeals Council are not supported with substantial evidence, and that the conclusion that he is not disabled is incorrect and contrary to law. The court referred this case to Magistrate Judge Wells pursuant to 28 U.S.C. § 636(b)(1)(B).⁶

On August 8, 2018, Judge Wells filed a thorough Report & Recommendation in which she dispenses with Mr. H’s arguments and recommends the Commissioner’s decision be affirmed.⁷ Pursuant to 28 U.S.C. § 636(b) and Rule 72(b)(2), Federal Rules of Civil Procedure, Judge Wells in her Recommendation instructed that any Objection to it must be filed within fourteen (14) days of service, and warned that failure to do so “may constitute a waiver of objections upon subsequent review.”⁸ Nearly a month later, neither party has filed an Objection.

³ Dkt. 10-2, Administrative Record, at 14.

⁴ *Id.* at 15.

⁵ Dkt. 3, Complaint.

⁶ Dkt. 16.

⁷ Dkt. 36.

⁸ *Id.* at 15.

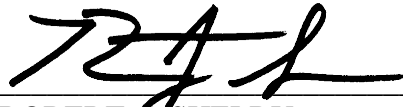
ANALYSIS AND ORDER

No party timely objected to Judge Wells' Report & Recommendation. And having reviewed the relevant materials, the court finds the reasons reasoning set forth in the Report & Recommendation to be correct.

For these reasons, the court ADOPTS the Report & Recommendation in its entirety and hereby DISMISSES Plaintiff's Complaint. The Clerk of Court is directed to CLOSE this case.

SO ORDERED this 4th day of September, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'R. A. Shelby', written over a horizontal line.

ROBERT A. SHELBY
United States District Judge